

X. ETHICS OPINIONS

- A. **Policy.** The issuance of ethics opinions, based upon actual circumstances that are not the subject of a pending disciplinary proceeding, shall be an ongoing program of the Alaska Bar Association. The Association's Ethics Committee is charged with the responsibility of drafting ethics opinions.
- B. **Ex Officio Member.** The Bar Counsel sit on the Ethics Committee as an ex officio member of that Committee.
- C. **Persons Eligible to Request Opinions.** The Ethics Committee may issue opinions to persons authorized to practice law in Alaska who are in good standing, on matters of professional or judicial ethics that deal with the requesting person's own conduct. Bar Counsel may also request an opinion.
- D. **Request Procedures.** Each request for an ethics opinion shall be addressed to the Association's Bar Counsel who will first determine whether the opinion involves conduct relevant to a current disciplinary investigation or a potential discipline matter. If not, the request will be forwarded directly to the chairperson of the Ethics Committee for the Committee's review and opinion. If the request involves disciplinary matters, the request for an opinion will be denied.
- E. **Approval.** No Formal Ethics Opinion shall be published without the approval of the Board of Governors, although the Committee may issue informal letter opinions that are not binding on the Association.
- F. **Distribution.** Once adopted by the Board, an ethics opinion shall be distributed to the Supreme Court, Board members, and Law Libraries throughout the State. Distribution to the membership shall be by publication on the Association's website.
- G. **Opinions Not Adopted.** Opinions either not approved by the Board, or withdrawn by the Board subsequent to initial approval, may be so designated and distributed to the Law Libraries, if determined appropriate by the Board of Governors.
- H. **Removal for Unexcused Absences.** A member shall be removed from the Committee if he or she fails to attend four (4) consecutive Committee meetings in a twelve (12) month period without approval of the absence by the Committee chair. On request by the Committee chair, the Board President will appoint a replacement member to complete the unexpired term of the removed member.
- I. **Informal Ethics Guidance.** As a service to members of the bar, informal guidance on active and pending ethics issues may be provided by bar counsel or counsel's designees. Such guidance is generally based on unverified information under informal circumstances, and assumes that the facts as related are all true and accurate. Informal guidance has no binding legal effect on Courts, the Ethics Committee, the Disciplinary Board or the Board of Governors and cannot be used as evidence in any legal or administrative proceeding. It is intended to provide practical, real-time guidance to practitioners faced with ethics issues. It is not a substitute for an attorney's own duty to be aware of the requirements of the Rules of Professional Conduct. However, it may be used as a defense or in mitigation of any subsequent ethical action involving the same facts.